

## **REMARKS/ARGUMENTS**

Reconsideration of this application is requested. Claims 13-20, 31-36, 39 and 46-61 are in the case.

### **I. THE ANTICIPATION REJECTIONS**

Claims 13-16, 18-20 and 36 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent 4,867,154 to Potter et al. That rejection is respectfully traversed.

Claim 13 as amended is directed to a fastener in combination with a tube for securing the tube to a patient. The fastener comprises a tubular sleeve and a holding element attached to each end of the tube of the sleeve. The tube of the sleeve is of variable length and is configured, when lengthened, to grip the tube. The tube has a lumen and can transport fluid to or from a patient.

Claim 13 as amended recites the presence of the holding element which is depicted, for example, in Figure 10 as ring 44. Basis for "holding element" appears in the discussion at page 17 beginning at line 13 which describes the rings as "holding open the respective ends of the sleeve..." Claim 36 has likewise been amended to recite a holding element, and new claim 49 directed to a fastener also recites a holding element at a first end of the tubular sleeve. The dependent claims presented herewith correspond essentially to previously presented dependent claims. No new matter is entered.

Potter does not describe (or suggest) a combination or fastener as now claimed. In particular, there is no suggestion in Potter of a holding element attached to one or

both ends of a tubular sleeve. Withdrawal of the outstanding anticipation rejection based on Potter et al is accordingly respectfully requested.

Claims 13, 14, 31 and 34-36 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent 4,754,685 to Kite et al. In response, Kite does not disclose (or suggest) a combination or fastener as now claimed in the present application. In particular, there is no disclosure in Kite of a holding element as now required in the presently claimed invention. Withdrawal of the outstanding anticipation rejection based on Kite et al is accordingly respectfully requested.

## **II. THE OBVIOUSNESS REJECTION**

Claim 39 stands rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Kite et al or Potter et al. This rejection is respectfully traversed. Claim 39 is dependent on claim 13 which has been amended as discussed above. Neither Kite nor Potter describes or suggests the invention as now claimed. Withdrawal of the outstanding obviousness rejection of claim 39 is accordingly respectfully requested.

## **III. ALLOWABLE SUBJECT MATTER**

It is noted, with appreciation, that claims 17 and 32-33 are directed to allowable subject matter. With the amendments presented herein, it is believed that all of the claims in the present application are now in allowable condition. Allowance of all claims is accordingly respectfully requested.

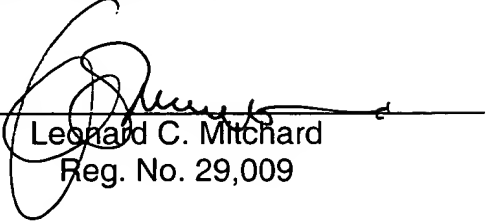
Favorable action on this application is awaited.

SPINOZA, Marc H.  
Appl. No. 09/506,361  
June 14, 2004

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
Leonard C. Mitchard  
Reg. No. 29,009

LCM:lfm  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100